

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Case Number 14-20117  
Honorable David M. Lawson

v.

MANOLO M. GARZA,

Defendant.

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**ORDER STRIKING IMPROPER FILING AND IMAGES FROM THE  
CM/ECF SYSTEM AND DIRECTING RESPONSE**

On October 5, 2015, the government filed a response to the defendant's motion to dismiss indictment that included a proposed order. Counsel is obliged to be aware of and follow the CM/ECF procedures. "Proposed orders must be submitted to the judge to whom the case is assigned . . . via the link located under the Utilities section of CM/ECF." E.D. Mich. Electronic Filing Policies and Procedures R11(a). If a proposed order is accepted, the Court will then docket it with the Judge's electronic signature. "Proposed" orders should *never* be e-filed and *docketed* by a party. The Court therefore will strike the government's improperly filed proposed order.

Moreover, the government failed to address the substance of the defendant's motion, asserting only that the motion is untimely. However, the defendant in his motion purports to attack the Court's subject matter jurisdiction. "A motion that the court lacks jurisdiction may be made at any time while the case is pending." Fed. R. Crim. P. 12(b)(2). The government would be well advised to submit the records demonstrating the regularity of the grand jury proceedings and the return of the indictment in accordance with Federal rule of Criminal Procedure 6(f). *See United States v. Lawrence*, 308 F.3d 623, 628 (6th Cir. 2002).

Accordingly, it is **ORDERED** that the government's response to the defendant's motion to dismiss indictment [dkt. #555] shall be **STRICKEN** from the record in this case and the images removed from the CM/ECF system.

It is further **ORDERED** that the government must file a response addressing the substance of the defendant's motion **on or before October 23, 2015**.

s/David M. Lawson \_\_\_\_\_  
DAVID M. LAWSON  
United States District Judge

Dated: October 13, 2015

**PROOF OF SERVICE**

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on October 13, 2015.

s/Susan Pinkowski \_\_\_\_\_  
SUSAN PINKOWSKI